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Attorneys for Plaintiffs, Anjanette & Rodney DeLong

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ANJANETTE DELONG individually; and
RODNEY DELONG, by and through his
successor-in-interest ANJANETTE
DELONG,

Plaintiffs,

v.

DOES 1 to 20, in their individual
capacities,

Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. Violation of Civil Rights –Eighth Amendment
(42 U.S.C. § 1983)
2. Negligence/Wrongful Death
(Cal. Gov’t Code § 844.6(d))
3. Violation of Civil Rights – Fourteenth Amendment
(42 U.S.C. § 1983)

[JURY TRIAL DEMANDED]

Plaintiffs allege as follows:

JURISDICTION, VENUE & PARTIES

1. This case arises under Title 42 of the United States Code, Section 1983. Jurisdiction is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1334. In addition this Court has pendant and supplemental jurisdiction pursuant to Title 28 of the United States Code, Section 1367 over the state law claims alleged in this complaint.

2. The unlawful acts and practices alleged herein occurred in the County of Lassen, State of California, within this judicial district. Therefore, venue lies in the United States Court for the Eastern District of California.
3. Plaintiff Anjanette DeLong ("plaintiff") is of the age of majority and a citizen of California, residing in Placer County, California.
4. At all times relevant herein, co-plaintiff and decedent Rodney DeLong ("DeLong") was a citizen of California, and prisoner in the custody of California Department of Corrections and Rehabilitation. At the time of his death, DeLong was incarcerated at High Desert State Prison ("HDSP") in Susanville, California. Plaintiff, DeLong's biological mother, is DeLong's successor-in-interest, and has standing to bring this action.
5. This action encompasses a wrongful death action brought by plaintiff Anjanette DeLong individually with respect to each claim for relief. Plaintiff Anjanette DeLong similarly pursues the federal Eighth Amendment claim for relief on a survival theory on behalf of DeLong for pre-death pain, suffering and other damages DeLong would have asserted had he survived.
6. State of California - Department of Corrections and Rehabilitation ("CDCR") is a government entity authorized by law to establish certain departments responsible for enforcing the law and protecting the welfare of citizens in the State of California. At all times mentioned herein, CDCR was responsible for overseeing the operation, management and supervision of HDSP, and certain unknown DOE defendants, employed by CDCR as peace officers. CDCR promulgates policies and procedures that are implemented at HDSP.
7. Plaintiff is informed and believes and thereon alleges that defendants DOES 1 to 20 are individuals residing in the State of California and employed by CDCR as peace officers at HDSP. At all relevant times, DOES 1-20 were acting in the course and scope of their

employment, under the color of law as officers of CDCR. The true names of defendants DOES 1 to 20 are presently unknown to plaintiff (collectively the “DOE defendants”). Despite plaintiff’s efforts to obtain the specific identities of such CDCR officers prior to filing suit, CDCR provided only heavily redacted reports surrounding DeLong’s death, such that the names of the particular officers involved are not known to plaintiff. DOES 1 to 20 are correctional officers, sergeants, lieutenants, or other authorized employees of CDCR. Plaintiff is informed and believes and thereon alleges that each of DOE defendants is legally responsible in some manner for the events and damages referred to herein and legally and proximately caused damage to plaintiff. When the true identities of the DOE defendants are ascertained, plaintiff will seek leave of court to amend this complaint. See, e.g., *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* (1971) 403 U.S. 388, 390, fn. 2. All DOE defendants are sued in their individual capacities.

8. CDCR was at all relevant times operating, maintaining, managing and doing business as HDSP, a State owned and operated correctional and rehabilitation facility for men in California, and as such assumed the responsibility of providing a Constitutionally mandated level of safety to inmates housed within HDSP as wards of the State. Similarly, CDCR was responsible for overseeing the day-to-day operations and security of the prison. All of the acts complained of in the complaint were done and performed by the DOE defendants as authorized agents, servants and/or employees acting within the course and scope of their employments by CDCR. CDCR ratified all of the acts complained of herein.

GENERAL ALLEGATIONS

9. At all relevant times, DeLong was imprisoned at HDSP in Susanville, California, serving a sentence of nine years. At the time of his death on May 6, 2018, DeLong had 7-months remaining on his sentence.

10. On May 6, 2018, DeLong was transferred to a new cell, as part of HDSP's cell-compaction process. The transfer to DeLong's new cell, Z-161, took place at approximately 12:30 p.m.

11. Plaintiff is informed and believes and thereon alleges that DeLong's new cellmate, Robert Stockton ("Stockton"), was a known Aryan Brotherhood[†] ("AB") associate/member, who had previously carried out violent attacks on behalf of the AB, against its enemies. AB members are recruited from the prison population. For new members, the AB has a policy of 'blood in, blood out': potential members must commit a murder to gain full membership, and can only leave when they die. As part of the AB, members are required to commit any criminal acts that the enterprise asks of them. AB members pledge their lives to the enterprise. Plaintiff is informed and believes and thereon alleges that Stockton gained AB membership no later than October 15, 2016, when he executed a murder at the request of the AB. The inmate murdered by Stockton, Doug Maynard ("Maynard"), had become an AB target because he owed money at another prison, had a drug problem, and/or otherwise violated AB politics/code of conduct. Stockton killed Maynard utilizing a knife, repeatedly stabbing Maynard in his head and upper torso.

12. Plaintiff is informed and believes and thereon alleges that Stockton's violent propensities and status as an AB member/associate was known to defendants, and each of them, well prior to the cell-compaction in which DeLong was placed with Stockton.

13. Plaintiff is informed and believes and thereon alleges that prior to the cell-compaction, DeLong was considered an enemy of the AB that would be targeted for attack. Defendants, and each of them, were aware of this.

14. Plaintiff is informed and believes and thereon alleges that the fundamental prerequisite to a cell compaction/change is processing of the inmates contemplated to be housed together via the Strategic Offender Management System ("SOMS"). SOMS is the system utilized

[†] The "Aryan Brotherhood" is a race-based gang formed in the California prison system around 1964 by white inmates who wanted to gain power and authority in prison.

1 by CDCR to electronically monitor inmates' files. During the cell compaction process,
2 correctional staff utilizes SOMS to determine whether inmates are suitable to be housed
3 together, and what sort of special needs/restrictions a particular inmate may have. SOMS
4 keeps track of information such as gang affiliations, violent propensities, housing
5 restrictions, and the like.

- 6 15. Plaintiff is informed and believes and thereon alleges that SOMS listed DeLong as an
7 enemy of the AB, and prevented him from being housed with anyone having AB ties.
8 Similarly, SOMS listed Stockton as a member/associate of the AB, with a known
9 propensity for violence, including the killing of Maynard. Had the cell compaction been
10 processed through SOMS, it would have been evident that DeLong and Stockton should
11 not be housed together.
- 12 16. Defendants, and each of them, knew that placing inmates together or otherwise making
13 cell changes without processing the change through SOMS poses a serious and obvious
14 risk of harm to inmates, including DeLong. Given the various gang affiliations of inmates
15 throughout California prisons and sensitive needs of other inmates, there is a substantial
16 and real risk of harm whenever inmates are rehoused/placed together without a
17 determination that they are compatible. Placing DeLong (a known AB enemy being
18 targeted by the AB) into an unsupervised cell with Stockton (a known AB
19 member/associate) created a heightened and substantial risk of harm to DeLong.
- 20 17. Defendant, and each of them, through their personal knowledge, positions at CDCR
21 and/or access to information (e.g., via SOMS) about HDSP inmates (including Stockton
22 and DeLong), had knowledge that Stockton posed a direct threat to other inmates given
23 his propensity for violence/prior attacks and association with the AB. Plaintiff is
24 informed and believes and thereon alleges that defendants, and each of them, possessed
25 knowledge that Stockton posed a direct and particularized threat to DeLong. This threat
26 to DeLong was compounded given his thin build (approx. 6 feet tall and 140 lbs) and
27 other risk factors.
28

1 18. Defendants, and each of them, failed to take adequate measures to extinguish the threat
2 posed by Stockton, failed to adopt or implement adequate policies or procedures to
3 segregate violent persons such as Stockton from other inmates after learning of their
4 violent propensities, failed to adopt or implement adequate policies or procedures to
5 segregate AB members/associates such as Stockton from other known AB enemy
6 inmates, failed to supervise/search Stockton or cell Z-161 adequately, failed to train
7 correctional employees adequately, failed to adopt or implement policies to ensure
8 correctional employees had sufficient information about inmates when undertaking the
9 cell-compaction process, failed to warn DeLong of Stockton's AB ties/violent
10 propensities, and otherwise failed to ensure that SOMS was utilized prior to any
11 contemplated cell changes. These acts of defendants, and each of them, were done in
12 conscious disregard of an excessive risk to DeLong's health and safety.

13 19. Plaintiff is informed and believes and thereon alleges that the planned attacks and
14 violence perpetrated by the AB against its enemies (such as DeLong) is longstanding,
15 pervasive, and well-documented such that defendants, and each of them, knew that
16 placing DeLong with a member of the AB would pose a substantial risk to his health and
17 safety.

18 20. Plaintiff is informed and believes and thereon alleges that per HDSP/CDCR's own
19 guidelines, DeLong was considered to be in danger of violent attacks by other inmates if
20 any AB member/associate was given access to him.

21 21. Sometime after placing DeLong in Z-161, DOE 1 realized that he and DOE 2 (the
22 officers who completed the cell change), failed to ensure that the cell compaction was
23 properly evaluated or processed by HDSP central control through SOMS. DOE 1 directed
24 other correctional staff to remove DeLong and place him in a holding cell pending further
25 inmate compatibility review by central control. By the time correctional staff reached cell
26 Z-161, they found Stockton blocking the door of the cell. When Stockton moved, officers
27 could see DeLong lying in a pool of blood from his torso to his head. Stockton dropped a
28 prison-manufactured weapon out of the food port in the cell door. Correctional staff

1 removed Stockton and eventually began treatment of DeLong. DeLong suffered stab
2 wounds to his head, neck and eyes. DeLong was pronounced dead at 1:02 p.m. on May 6,
3 2018 as a result of his injuries.

4 22. As a direct and proximate result of defendants' conduct, and the death of DeLong,
5 plaintiff sustained economic damages consisting of (1) the value of lost financial and
6 other support from decedent, (2) the value of gifts or benefits that decedent would have
7 provided, (3) the value of funeral and burial expenses, and (4) the reasonable value of
8 household services that the decedent would have provided.

9 23. As a direct and proximate result of defendants' conduct, and the death of DeLong,
10 plaintiff sustained non-economic damages consisting of the loss of the DeLong's love,
11 companionship, comfort, care, assistance, protection, affection, society, and moral
12 support.

13 **FIRST CLAIM FOR RELIEF**
14 **(Eighth Amendment -- 42 U.S.C. § 1983)**
15 **(Against All Defendants)**

16 24. Plaintiff incorporates by reference each and every allegation of this complaint as though
17 fully set forth herein.

18 25. Title 42 of the United States Code, Section 1983 provides in pertinent part:

19 Every person who, under color of any statute, ordinance, regulation, custom, or
20 usage of any State or Territory subjects, or causes to be subjected, any person of
21 the United States or other person within the jurisdiction thereof to the deprivation
22 of any rights, privileges, or immunities secured by the Constitution and laws shall
be liable to the party injured in an action at law, suit at equity or other proper
proceeding for redress.

23 26. The conduct complained of herein was undertaken pursuant to the policies, practices and
24 customs of the CDCR, an agency of the State of California, and was sanctioned and
25 approved by the individual DOE defendants.

26 27. Each defendant, acting under color of state law, through their own individual actions and
27 through their policies, practices and customs, deprived DeLong of rights, privileges, and
28 immunities secured by the Constitution and laws of the United States under the Eighth

- 1 Amendment (made applicable to States via the Fourteenth Amendment), by subjecting
2 him, or allowing others to subject him, to cruel and unusual punishment.
- 3 28. Defendants knew that DeLong faced a serious risk of violent assaults and attacks by AB
4 members/associates, and inmates with violent propensities, because of DeLong's status
5 as an enemy of the AB.
- 6 29. Despite knowing that DeLong faced a serious and substantial risk of violent attacks by
7 AB members/associates, the DOE defendants placed DeLong into a cell with a known
8 AB member/associate with a propensity for violence, Stockton.
- 9 30. Prior to placing DeLong into a cell with Stockton, the DOE defendants knew that there
10 was a substantial risk of violence when AB enemies are placed with AB
11 members/associates. By placing DeLong into a cell with Stockton, the DOE defendants
12 disregarded that obvious risk.
- 13 31. DOE defendants were similarly aware that failing to search Stockton and/or cell Z-161
14 prior to placing DeLong into the cell created an obvious and substantial risk of harm. By
15 placing DeLong into a cell with Stockton without conducting a proper search, the DOE
16 defendants consciously disregarded that risk.
- 17 32. As a direct and proximate cause of the aforementioned acts/failures to act of the DOE
18 defendants, DeLong and, in turn, plaintiff were injured as set forth above.
- 19 33. As the direct and proximate result of the DOE defendants' actions, DeLong and plaintiff
20 have suffered, and will continue to suffer, physical, mental and emotional injury, all to an
21 extent and in an amount subject to proof at trial. Plaintiff has also incurred, and will
22 continue to incur, attorneys' fees, costs and expenses, including those authorized by 42
23 U.S.C. § 1988, to an extent and in an amount subject to proof at trial.
- 24 34. Plaintiff is informed and believes and thereon alleges that the DOE defendants, and each
25 of them, acted with malice toward DeLong/plaintiff, or acted with a willful and conscious
26 disregard for the rights of DeLong/plaintiff in a despicable, vile, and contemptible
27 manner. Therefore, plaintiff is entitled to an award of punitive damages for the purpose
28 of punishing defendants and to deter them and others from such conduct in the future.

SECOND CLAIM FOR RELIEF
(Negligence Resulting In Wrongful Death – Cal. Gov’t Code § 844.6(d) & Cal.
Code Civ. Proc., § 377.60)
(Against All Defendants)

35. Plaintiff incorporates by reference each and every allegation of this complaint as though fully set forth herein.

36. Defendants, and each of them, owed a duty imposed by law to use reasonable care in conducting themselves as peace officers and completing cell-compacting and housing inmates.

37. Defendants and each of them failed to exercise the degree of care and caution that a reasonable and prudent person would exercise under like conditions and circumstances. Defendants failed to conform to a certain standard of conduct for the protection of DeLong against unreasonable risk of injury and death. This failure exposed plaintiff to an unreasonable risk of harm.

38. Defendants undertook the responsibility of providing correctional services to DeLong, including implementing a cell change, which defendants should have recognized as requiring a review of SOMS and/or other inmate records to determine DeLong’s compatibility to be housed with Stockton. Similarly, defendants failed to properly conduct a search of Stockton and/or cell Z-161 prior to placing DeLong there, thereby allowing Stockton to possess an inmate manufactured weapon. As a result of defendants’ failures to properly review SOMS/other inmate records, and failure to otherwise exercise reasonable care, DeLong suffered death, to his and plaintiff’s damage.

39. DeLong was particularly vulnerable in light of his incarceration and relied on defendants (who had control over him), for protection from violent assault, which is not part of the

penalty that criminal offenders pay for their offenses against society.

40. On or about May 2, 2019, plaintiff submitted a Claim for Damages and Application to File a “Late” Claim to the State of California, Department of Corrections and Rehabilitation pursuant to the California Government Claims Act, Government Code section 810, *et seq.* (the “claim”). On August 7, 2019, the application to file a late claim was granted under Government Code section 911.6, but the underlying claim for damages was rejected due to complexity. Accordingly, plaintiff timely filed this state law claim within the requisite 6-months limitations period. Cal. Gov. Code, § 945.6.

THIRD CLAIM FOR RELIEF
(Fourteenth Amendment -- 42 U.S.C. § 1983)
(Against All Defendants)

41. Plaintiff incorporates by reference each and every allegation of this complaint as though fully set forth herein.

42. Defendants, and each of them, while acting under color of law, subjected DeLong, or caused DeLong to be subjected to the deprivation of his rights, privileges, or immunities secured by the Eighth Amendment to the United States Constitution which resulted in the death of DeLong, the son of plaintiff, without legal justification.

43. By doing the acts complained of in this complaint, defendants deprived plaintiff of her liberty interest under the Fourteenth Amendment to the United States Constitution in the companionship of her son DeLong. The death of DeLong was a direct result of defendants’ conscious disregard of the likelihood of substantial harm to DeLong unrelated to legitimate penological goals.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against defendants as follows:

1. General damages according to proof, believed to be in excess of \$3,000,000;
2. Special damages according to proof;
3. Attorneys' fees under 42 U.S.C. §1988 and any other appropriate statute;
4. Punitive damages according to proof;
5. Costs of suit; and
6. Any other and further relief as this Court may deem appropriate.

Date: January 24, 2020

LAW OFFICES OF EUGENE B. CHITTOCK

/s/

Eugene B. Chittock
Attorney for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues so triable.

Date: January 24, 2020

LAW OFFICES OF EUGENE B. CHITTOCK

/s/

Eugene B. Chittock
Attorney for Plaintiffs